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U.S. DISTRICT COURT
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4 **EQUAL EMPLOYMENT OPPORTUNITY**
5 **COMMISSION**, Phoenix District Office
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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION**

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

vs.

TEPANYAKI OF CLEARFIELD, L.L.C.,

Defendant.

Case No. 1:09-cv-43 TS

CONSENT DECREE

Judge Ted Stewart

The United States Equal Employment Opportunity Commission (the
"Commission" or "EEOC") filed this action against Tepanyaki of Clearfield, L.L.C.
("Tepanyaki" or "Defendant") to enforce Title VII of the Civil Rights Act of 1964, the
Civil Rights Act of 1991. In the Complaint, the Commission alleged that Defendant
discriminated against Ms. Alison Woodbury in violation of Title VII, 42 U.S.C. § 2000e-
2(a), by firing her because she was pregnant.

1 In the interest of resolving this matter, and as a result of having engaged in
2 comprehensive settlement negotiations, the Parties have agreed that this action should be
3 finally resolved by entry of this Decree.

4 The Parties do not object to the jurisdiction of the Court over this action and waive
5 their rights to a hearing and the entry of findings of fact and conclusions of law.
6

7 It is hereby ORDERED, ADJUDGED AND DECREED:

8 1. This Decree resolves all claims of the Commission against Defendant,
9 including back pay, compensatory and punitive damages, interest, injunctive relief,
10 attorney's fees, and costs arising out of the issues in this lawsuit.
11

12 2. This Decree, and any provision herein regarding Defendant, applies to
13 Defendant and to its officers, agents, employees, successors, and assigns.
14

15 3. Defendant denies liability and this Consent Decree is not an admission of
16 liability.
17

18 INJUNCTION

19 4. Defendant and its officers, agents, employees, successors, and assigns both
20 at the time that this Decree becomes effective and for the duration of this Decree, are
21 enjoined from: (a) discriminating against any employee on the bases of sex and/or
22 pregnancy, including refusing to rehire and/or terminating an employee; (b) altering the
23 terms and conditions of any employee's employment because of pregnancy; and (c)
24 retaliating against any employee because he or she: (i) opposes or opposed discriminatory
25 practices made unlawful by Title VII; (ii) files or filed a charge of discrimination or
26 assists, assisted, participates, or participated in the filing of a charge of discrimination; or
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1 (iii) assists, assisted, participates or participated in an investigation or proceeding brought
2 under the Federal or State laws prohibiting discrimination or retaliation.

3 **MONETARY RELIEF**

4
5 5. Defendant shall pay a settlement in the amount of \$30,000 to Ms.
6 Woodbury by no later than thirty (30) calendar days after the Court's entry of this
7 Consent Decree. The cashier's check or money order shall be made payable to Ms.
8 Woodbury and mailed to the address provided by the Commission. Within three business
9 days of the issuance of the cashier's check or money order, Defendant shall submit a
10 copy of the check or money order and all related correspondence to Mary Jo O'Neill,
11 Regional Attorney, Equal Employment Opportunity Commission, 3300 North Central
12 Avenue, Suite 690, Phoenix, Arizona 85012.
13
14

15 6. This payment represents settlement of compensatory damages in the
16 amount of \$30,000. Defendant shall make no deductions from this amount. Defendant
17 will issue United States Internal Revenue Service Form 1099 to Ms. Woodbury for the
18 compensatory damages for the tax year during which payment is made. Defendant will
19 not condition the receipt of individual relief on Ms. Woodbury's agreement to (a)
20 maintain as confidential the terms of this decree, (b) waive her statutory right to file a
21 new charge with any federal or state anti-discrimination agency, or (c) waive her right to
22 apply for a position with the Defendant.
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OTHER RELIEF

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2 7. Defendant shall expunge from the personnel file of Ms. Woodbury: (a) all
3 references to the charge of discrimination filed against Defendant that formed the basis of
4 this action; (b) all references to Ms. Woodbury's participation in this action; (c) any
5 derogatory document which relates to complaints or investigation of discrimination based
6 on sex (female-pregnancy); and (d) any other documents relating to the charge of
7 discrimination which Ms. Woodbury filed.
8

9
10 8. Defendant shall agree to institute and carry out policies and practices that
11 help assure a work environment free from unlawful discrimination based on sex (female-
12 pregnancy). To assist Defendant in its efforts to assure such a work environment,
13 Defendant shall take the actions provided in paragraphs 9 through 13 of this Decree.
14

15 **NOTICE**

16 9. Defendant shall post for the duration of this Decree, in a prominent place
17 frequented by its employees at its facility, the Notice attached as Exhibit A. The Notice
18 shall be posted in English and other languages as appropriate. The Notice shall be the
19 same type, style and size as set forth in Exhibit A.
20

21 **TRAINING**

22
23 10. Defendant shall provide training on unlawful sex (female-pregnancy)
24 discrimination, according to the following terms:

25 A. Defendant shall retain Attorney Lauren Scholnick to provide the training
26 described above. At least sixty (60) days prior to the proposed training session,
27 Defendant shall submit the dates of the proposed training session and an outline of the
28

1 contents of the training, to the Regional Attorney of the Phoenix District Office of the
2 EEOC, at the address provided above.

3 B. The seminar training session shall be conducted within six months of the
4 entry of this Decree. New hires within the decree period will be trained within two
5 months of their hire date.
6

7 C. The seminar training session shall be at least two (2) hours in length,
8 including thirty (30) minutes for questions and answers. All of Defendant's supervisory,
9 management and non-supervisory employees shall attend the seminar session. Defendant
10 shall keep a written record of all employees who attend the training. The registry of
11 attendance shall be retained by Defendant for the duration of this Decree. Defendant may
12 at its election have duplicative sessions to accommodate staffing needs or videotape the
13 training session. Defendant shall be responsible for any additional costs to provide such
14 duplicative or videotaped sessions.
15
16

17 D. The seminars shall include: (1) the subject of what constitutes sex (female-
18 pregnancy) discrimination; (2) that Title VII is violated by sex discrimination based on
19 pregnancy; (3) how to prevent sex (female-pregnancy) discrimination; (4) how to provide
20 a work environment free from sex (female-pregnancy) discrimination; (5) to whom and
21 by what means employees may complain if they feel they have been subjected to sex
22 (female-pregnancy) discrimination in the workplace; and (6) the training will cover the
23 myths and stereotypes often associated with the ability of pregnant women to work;
24 typical manifestations of pregnancy discrimination in the workplace at both the
25 application and employment phases; common challenges faced by pregnant women in the
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1 workplace; legal obligations of employers of pregnant employees; and informational
2 resources available to employers with pregnant employees. The session shall also review
3 and explain Defendant's policies set out in this Decree.

4
5 11. The Commission, with reasonable notice, may designate Commission
6 representatives to attend and participate in the seminar-training sessions, and the
7 representatives shall have the right to attend and fully participate in the sessions.

8 **POLICIES AND PROCEDURES**

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10 12. Within sixty (60) days of the entry of this Decree, Defendant shall develop
11 written policies concerning sex (female-pregnancy) discrimination, to conform to the law,
12 and submit the policy for review to the Regional Attorney of the Phoenix District Office
13 of the EEOC. Defendant shall be responsible for: (a) creating and implementing, and/or
14 reviewing and revising, Defendant's anti-discrimination policies; (b) creating and
15 implementing, and/or reviewing and revising, Defendant's procedures with respect to
16 responding to and keeping records regarding complaints received. These written policies
17 must include at a minimum:
18
19

20 A. A strong and clear commitment to a workplace free of sex (female-
21 pregnancy) discrimination;
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23 B. A clear and complete definition of sex (female-pregnancy) discrimination;

24 C. A statement that sex (female-pregnancy) discrimination is prohibited and
25 will not be tolerated;
26

27 D. A clear and strong encouragement of persons who believe they have been
28 subjected to sex (female-pregnancy) discrimination to come forward;

1 E. The identification of specific individuals, internal and external to
2 Defendant, with their telephone numbers, to whom employees, who have been subjected
3 to sex (female-pregnancy) discrimination, can report the unlawful conduct, including a
4 written statement that employees may report the unlawful conduct to designated persons
5 outside of their chain of management. The statement shall explain that, should a non-
6 English speaking employee seek to report sex (female-pregnancy) discrimination,
7 Defendant shall retain an interpreter for purposes of taking the report and further
8 communicating with the employee about the reported incidents;
9

11 F. A policy that Defendant shall promptly, fairly, appropriately, and
12 effectively investigate all complaints of sex discrimination, including discrimination on
13 the basis of pregnancy. The investigation should include a finding of whether
14 discrimination occurred; a credibility assessment; interviews of all potential victims and
15 witnesses identified; and concurrent notes of the investigation. Defendant shall take
16 immediate appropriate corrective action to make discrimination victims whole, to
17 discipline violators and to eradicate the discrimination;
18

19 G. A description of the consequences, up to and including termination that will
20 be imposed upon violators of the policy;
21

23 H. A promise of confidentiality to the extent possible for persons who believe
24 that they have been subjected to sex (female-pregnancy) discrimination;
25

26 I. An assurance of non-retaliation for persons who believe they have been
27 subjected to sex (female-pregnancy) discrimination, and for witnesses;
28

1 J. The policy that Defendant shall not retain documents related to the
 2 investigation in any of the complainant's personnel files. All disciplinary actions taken
 3 against employees for violation of Defendant's policy will be retained in the violator's
 4 personnel file. In those cases in which no conclusion could be reached on the allegations,
 5 the investigation documents shall remain in the alleged violator's file.
 6

7 13. These policies shall be distributed to each of Defendant's current
 8 employees within ninety (90) days of the entry of this Decree. These policies shall be
 9 distributed to all new employees of Defendant when hired. These policies also shall be
 10 posted, in English and other languages as appropriate, in a prominent place frequented by
 11 the employees at Defendant's workplace.
 12

13 **REPORTING BY DEFENDANT AND ACCESS BY EEOC**

14
 15 14. Defendant shall report in writing and in affidavit form to the Regional
 16 Attorney of the Commission's Phoenix District Office, beginning six months from the
 17 date of the entry of this Decree, and every six months thereafter for the duration of the
 18 Decree the following information:
 19

20 A. A copy of the revised policies required in paragraph 12 of this Decree.

21 B. Any changes, modifications, revocations, or revisions to its policies and
 22 procedures which concern or affect the subjects of sex (female-pregnancy)
 23 discrimination.
 24

25 C. The name, address, position, social security number, and telephone number
 26 of any individual who has brought allegations, whether formal or informal, of sex
 27 (female-pregnancy) discrimination, against Defendant's personnel including, but not
 28

1 limited to, management officials and/or non-management employees, during the first six
2 months, and every six months thereafter, preceding the report to the EEOC. The nature
3 of the complaint, investigatory efforts made by Defendant, and corrective action taken, if
4 any, also shall be specified.

5
6 D. The registry of persons attending the seminars required in paragraph 10 of
7 this Decree and a list of current supervisory, managerial, and non-supervisory personnel
8 employed by Defendant on the days of the seminar training sessions.

9
10 E. Confirmation that (1) the Notice required in paragraph 9 of this Decree was
11 posted in, and the locations where it was posted; (2) the policies required in paragraph 12
12 were distributed to each current and new employee of Defendant; (3) the expungement
13 from the Ms. Woodbury's personnel file required in paragraph 7 of this Decree took
14 place, the date of the expungement, and the specific documents expunged.

15 COSTS AND DURATION

16
17
18 15. Each Party shall bear its costs and attorney's fees incurred as a result of this
19 action through the filing of this Decree.

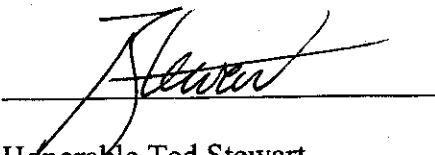
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21 16. The duration of this Decree shall be two years (24) months from its entry.
22 This Court shall retain jurisdiction over this action for the duration of the Decree, during
23 which the Commission may petition this Court for compliance with this Decree. Should
24 the Court determine that Defendant has not complied with this Decree, the Court may
25 order appropriate relief, including extension of this Decree for such period as may be
26 necessary to remedy its non-compliance, an award of attorney's fees and costs, and fines
27 for contempt of court.
28

1 17. In the event the Court concludes, upon petition of the Commission,
2 following notice to Defendant and a 60 day period to cure the violation, that Defendant
3 has violated the terms of this Decree, Defendant shall pay all attorney's fees and costs
4 incurred by the Commission to enforce the Decree.
5

6 18. Absent extension, this Decree shall expire by its own terms at the end of
7 two years (24) months from the date of entry without further action by the Parties.
8

9 19. The Parties agree to entry of this Decree and judgment subject to final
10 approval by the Court.
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14 DATED this 13th day November 2009

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18 Honorable Ted Stewart
19 U.S. District Court Judge
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STRINDBERG&SCHOLNICK

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1 APPROVED AND CONSENTED TO:

2 AGREED TO FOR DEFENDANTS:

3
4
5 Lauren Scholnick
6 Strindberg & Scholnick, LLC
7 785 N. 400 West
8 Salt Lake City, UT 84103

9 ATTORNEYS FOR DEFENDANT

10 Cham A. Sy
11 Representative for Defendant,
12 Tepanyaki of Clearfield, L.L.C.
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AGREED TO FOR THE EEOC:

Mary Jo O'Neill
Regional Attorney

P. David Lopez
Supervisory Trial Attorney

Meenoo Chahbazi
Trial Attorney


EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
3300 N. Central Ave, Suite 690
Phoenix, AZ 85012

ATTORNEYS FOR PLAINTIFF

1 APPROVED AND CONSENTED TO:

2 AGREED TO FOR DEFENDANTS:

3 AGREED TO FOR THE EEOC:

4 
5 Lauren Scholnick
6 Strindberg & Scholnick, LLC
7 785 N. 400 West
8 Salt Lake City, UT 84103

Mary Jo O'Neill
Regional Attorney

P. David Lopez
Supervisory Trial Attorney

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10 Cham A. Sy
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12 Tepanyaki of Clearfield, L.L.C.

Meenoo Chahbazi
Trial Attorney

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Phoenix, AZ 85012

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15 ATTORNEYS FOR PLAINTIFF
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EXHIBIT A

NOTICE TO ALL EMPLOYEES OF
TEPANYAKI OF CLEARFIELD

It is unlawful under federal law (Title VII of the Civil Rights Act of 1964) and state law to discriminate against an employee on the basis of pregnancy in recruitment, hiring, firing, compensation, assignment, or other terms, and conditions or privileges of employment. It is also unlawful to retaliate against any person because the person protested discriminatory practices or contacted the Equal Employment Opportunity Commission (EEOC) or the Utah Antidiscrimination and Labor Division (UALD).

Tepanyaki of Clearfield will not discriminate against any employee on the basis of pregnancy and will not retaliate against any employee.

If you believe you have been discriminated against by Tepanyaki of Clearfield, you have the right to seek assistance from:

(1) EEOC, 3300 North Central Avenue, Suite 690, Phoenix, Arizona 85012, (602) 640-5000; or

(2) UALD, 160 East 300 South, 3rd Floor, Salt Lake City, UT 84111, (801) 530-6801 or 1-800-222-1238 or (801) 530-7685 (TDD)

You have the right to file a charge with the EEOC or UALD if you believe you are being discriminated against.

No Retaliation Clause. No action may be taken against you by any supervisory or management official of Tepanyaki of Clearfield for (1) opposing discriminatory practices made unlawful by federal law, (2) filing a charge or assisting or participating in the filing of a charge of discrimination, or (3) assisting or participating in an investigation or proceeding brought under state or federal anti-discrimination laws. Should any such retaliatory actions be taken against you, you should immediately contact me and/or the EEOC or the UALD at the address or telephone numbers listed above.

Dated:

Cham Sy
Tepanyaki of Clearfield L.L.C.